WASHINGTON CITY, D. C. DESUAY HORSENSHILL ABUARY III, 1800

my Continue undertake to return resorted rem-menterations. Contribution will therefore preserve preserve and contribution whether on business of for publishing, dought to addressed to Wa. J wratch. Proprieto Unriban Republican, Washington, D. C.

Mrs. Grant's receptions will be held every

Tuesday during the season, between the hours of and 4p. m.
speaker status, succeptions of the Speaker of the House
of Representatives will be at his residence,
408 Fifteenth street, from 5 to 11 o'clock on

each Friday evening of the season.

mas. Maarsn's nacerrows.

Mrs. Blaine's receptions will be held every
reduceday of the season, between the hours of 2 and 5 p. va. DIPLOMATIC CORPS.

At the Russian Logation Madame de Cata-cary will receive on Thursdays, from 2 until 5 p. m.

evenings, communing on Monday, January

quence of necessary repairs, there will be ne evening receptions at the British Legation until special invitations are issued.

Our readers will remember that during to present the history of the famous McGar-rahan daims, then (and now) pending before the Congress of the United States. In so doing we were careful to adders to the record, and in it we found the most comresorts, and in it we found the most con-plute ordience of the absence of any title, legal or equitable, in McGarrahan to the lands claimed by him. In other words, his protended claim was conceived in fraud, and has thus far been prosecuted by appeals for sympathy, and at the same time the most sublushing andacity and other things necessary to mention just now. For this expect of this so-called claim, which it was our duty to make, Mr. McGarrahan thought proper to institute suit against us in the Sueme Court of the District, laying damages

In order to obtain a patest for this land, to which, as above stated, he (McGarrainau) had no title, legal or symitche, he filed in the Supreme Court of the District of Columbia, on the respondent (Brywning) made suswer excepting to the jurisdiction of the court is the premises. Outle fits of Fabruary, same year, the case was argued at the general term, (Chief Süstler Cartter, and Associate Jastlers Wylle, Ohn and Fisher String.) and on that day's stiputation was catered into between the counsel for the relator (Mc-Garratian) and the respondent (Browning) that the cause roles be decided in warsion, and a judgment entered wave pro-true. Nearly five months afterwards, viz. on the 8th day of for 1822, America, June 1822, America, Jun

certain lands in California, as prayed

pagamat come not have in a careful as against him until after he had had notice of the proceeding in the ordinary manner, and never having had such notice, of course desiined to obey the writ smill the Supreme Court of the United States should adjudge

Accordingly on the 28th of October Last, Hon. J. Hubber Ashtropper behalf of Secre-tary Cox, filed 2 motion in the District Sushow to be lands that Congress had expressed to execute substance. This motion was a regued, but the court delivered no opinion thereon, and so on the Still of Morember following, the motion was, by leave of the court, withdrawn, and a writ of error was issued from the Sn-preme Court of the United States on the Sn-preme Court of the United States on the Court, withdrawn, and a writ of error was set for bearing in said court on Tuesday last, when Mr. Phillips for the court, without a reconstitution of the Sn-preme Court of the Court

court on Tuesday last, which Mr. Phillips, for the defendant in error, (McGarrahan,) moved the court to rescind the order ansigning the cause for hearing, as stated shove, and argued that it rould not be regularly heard during the present term of the court. This motion the court took under advisement, and yesterday hald that the case stood for argument at this term, and must proceed. Mr. Merriman (for McGarrahan) moved that it be continued. The court refased the motion, but, with the cousent of the Attorney General, gave him (Merriman) leave to file a brief for the defendant in error

on or before Wednesday next.

The following is a copy of the brief of the plaintiff in error (Mr. Secretary Cox) submitted to the Supreme Court of the United States yesterday. The Atterney General and Mr. Ashton appearing for the Government and arguing the case:

In the Supreme Court of the United States December term, 1869. Jacob D. Cox, Secre-tary of the Interior, plaintiff in error, vs. The United States, ex. rel., Wm. McGarra-han-No. MT. In error to the Supreme Court of the District of Columbia.

of the District of Columbia.

\*\*STATEMENT AND ABRUMENT FOR PLAINTIFF IN REGON—STATEMENT OF THE CASE.

This record presents, we suppose, the most extraordinary exhibition of the unwarrantable extraordinary exhibition of the unwarrantable extraordinary exhibition of the matter of the action of this appellate tellminal.

On the 2d day of bounder, 1855, Wim. McGarrahan, the alarged purchaser of the claim of Vincent P. Compa to the tract of land in California Roows in the Funcets Grands Rossico, filed a petition in the Supreme Court of the District of Columbia praying that a writ of mandamax might be insued, commanding the Hos. O. H. frowning, Secretary of the Interior, to Issue, or cause to be issued, to him, McGarrahan, a patent for the land alleged to be cubrated by that claim. (Res. pp. 2-b.)

The Gomes-McGarrahan claim is well known to this court. (3d How., 225) 1 Walli, 600; if we call the color of the set of July 23, 1856, entitled "Au act to quict land titles in California."

"That where persons, in known faith and for exhibited scaleration is always promises lands of elections of the The Action of the act of previsions california."

ing lines of subdivisions." Its wast, at Large, 220,1

The polition of McGarraham, not averring that proof of the facts, as required by this law, had been made under the regulations of the Gommissioner of the Goneral Land Office, and without averring that the lands in questions were see mineral lands, containing mines of gold, silver, copper, or chunabar, and thus not excluded by the provision from the operation of the statute, allegal simply that the feets stated in this application were proved, by the relator, to Mr. Browning, the Secretary of the interior, and that he had found, from the proofs, that the relator, in good faith and for a valuable consideration, purchased the lands from Gomes.

Comes.

Upon the shawing made in this petition, the Supreme Court of this District, without soties to Mr. Browning, the Sersstary of the Interior, ordered, on the 7th of December, a rule to lesses, commanding him to show cause, on the third Monday of January, 1869, before the court skitting in general term, why the writ of mandatous prayed for should not issue. (Rec., p. 17.) And, on the 26th of January, Mr. Browning filed a sturm, in the nature of a pica to the jurisdiction of the court, submitting simply the suggestion that the court had not jurisdiction of the subject-matter of the case, and could not grant the writ prayed for—

1st. Because the subject-matter of the re-

1st. Because the subject-matter of the pe-

jurisation of the subject-matter of the case, and could not grant the writ prayed for—

1st. Because the subject-matter of the petition was purely of executive orgalizative, resting in the judgment and discretion of executive officers, in the ordinary discharge of their official duties—

2d. Because the subject-matter is one in which judgment and discretion were to be exercised; and

2d. Because the issuance of palents for lands is, by statute, the duty of the President of the United States. (Rec., p. 18.)

This question of jurisdiction appears to have been argued and submitted on the 6th of February, 1850. (Bec., p. 19.)

And, on the Sta of July, in variation, an order or judgment was filed in the clerk's office, susse per buse, so of 6th of February, directing that a percentage mandamus issue, directed to Ovrille II. Browning, Secretary of the Interior, or to his secretary in fire interior, or to his secretary in the relator, a patent for the tract of land, containing 17,788.07 acres, described in the petition, upon his paying to the United States the sum of \$20,000 and the clerk is made, directed to Medicarian, the relator, a patent for the tract of land, containing 17,788.07 acres, described in the petition, upon his paying to the United States the sum of \$20,000 and his before the own (Rec., p. 30.)

On the same day a writ of mandamus was sussed, directed to Mr. Browning, or his successor in office, commanding him to convol in Montercy and Ference counts. California. Four months before, as this court judically know, Mr. Browning, bad retired from the office, or mandamus was and accordingly, on the same day, the single of secretary of the Interior, and had been succeeded by the precent incumbant, Hon. Jacob D. Cox.

And accordingly, on the same day, the single of secretary of the Interior, and had been succeeded by the precent incumbant, Hon. Jacob D. Cox.

And accordingly, or review the unit against his successor, Mr. Cox, or to make him a party, and that no indice of the pendemy of the future of the case

p. 22.) But the court failing to determine the motion in time for the present term of this court, the motion was withdrawn, and this writ of error was thereupon lessed to everse the judgment.

First. This court has so repeatedly and so recently defined, in such clear and emphatin terms, the limits of the jurisdiction which may lawfully be asserted by the fuderal courts over the officers of the executive departments of the Government, that it is surprising that any court of the United States should, in its judicial action, transcend those limits.

partments of the Government, that it is surprising that any court of the United States should, in its judicial action, transcend these limits.

It was only a short time before the court below awarded this mandaums against the Servatory of the Interior, that this court decided the case of Gaines vs. Thompson, in which Jatton Miler, in delivering the opinion of the court, took occasion to review the previous adjudications upon this subject, and to expound, in terms even clearer than had been before employed, the dortrine they all counted to the court of the court of the subject, and to expound, in terms even clearer than had been before employed, the dortrine they all counted to the court of the court of the courts for the exercise of the judgment and discretion which the law reposes in him as part of his official functions.

"Certain powers and dutles," continues that tearned justice, "are combined to those officers, and to them alrows, and however the courts may, in ascertaining the rights of parties in suits properly before them, passured the legality of thoir acts, after the courts, there exists upon the legality of thoir acts, after the courts of the lattice with the carecise of that judgment while the matter is properly before them, passured to be constructed to the courts of the

dividual right arising such as the third of the laws of the United States."

This case finally disposed of the question, section of the act of the act of the fact in the section of the act of the section of the secti

not the courts, who are regulate its exercises.

In Galnes vs. Thompson, (7 Wall., 353,)
Mr. Justice Miller sald:
"The validity of plaintiff's entry, which is involved in their decision, (that of the officers of the Land Department, is a quasilon which requires the sareful enselvation and construction of sore than one and of Congress. It is far from being a ministerial act, under any definition given by this court."

In the case of United States vs. the Commissioner of the Land Office, (5 Walls, 565,) where the application was for a mandamus to compet the issuing of a patent, Mr. Justice Nelson said, the case "calls for the exercise of the judicial functions of the officer, and those of no ordinary character. The duty is not merely ministerial, but furofres judgment and discretion, which cannot be controlled by this court."

2. It would not be difficult to show that the authority and duty of the officers of the Land Department, in regard to the issuing of patents for lands of the United States, are not ever ministerial in character, but always rest in executive laddment and discretize indements and discretized in the character, but always rest in executive indements and discretized and the character of the

But as the present application was expressly based upon the provisions of the act
of July 23, \$850, cited at length above, it is
sufficient to remark, that the slightest inappectice of the seventh section of that art
will show that it devolves upon the Land
Preservent excentive duties and indicial
Functions of uses nightest and moss datasets
character, which must be exclusively performed by its officers without interference
of any court.

authority to determine every question of
fact and law arising under that act; and it
is sluppin unerpation for any court to attempt to control their judgment and disrestone.

The girls of two convenient bearing also.

bibliod from being conveyed to any summation and under the act of July 23, 1868, and for which Congress had expressly provided a different disposition, in another statute of July 26, 1865, (14 Stat. at Large, 251.)

The case this presented by the record to the case that presented by the record that the head of a department, in a sult hashing the best of the continuous that here been made, rebecome, a party.

2d. A peremptory madamus issued against the head of a department, in a case insumbent had sever been made, rebecome, a party.

2d. A peremptory manilamos a warded against the head of a department, in a case arising under law which it is is duty to alternistic of a risimant before his department, without any exhibition, on the juried the government he represents; of the reath of the matter in controversy, and without any cynoprotraity being afforded by the count of the substet of judicial disternination; and

4th. A judicial order to the head of a department to tseue a patent for lands, which the screepted locality; and, finally, whether the lands contain minus of guid, eller, coppered to the substet of judicial disternination; and

4th. A judicial order to the head of a department to tseue a patent for lands, which the screepted locality; and, finally, whether the lands contain minus of guid, eller, coppered to the partment to the land that Congress had experienced by the conditions and requirements of the statute nor can any entry be allowed until the partment to the act of July 23, 1866.

retarn, disciousing the facts in regard to this land and this application for a patent, the court below ventured to command the issuing of a patent for the entire tract.

Mr. Browning's return, as has been stated, was intended to raise a simple question of jurisdiction upon the face of the 7th section of the act of 1868. The facts of the case of this relation were not disclosed. Upon that return the court awarded a percenptory manifactors—1 final judgment upon ples is abstracted. The court, without being information, as to the actual situation of the land, assumed not only that the facts were as the states required, in order to give a right under it, but that upon those facts nothing was left to the judgment of the land Department, and a more ministerial duty devoted upon it to issue a patent to the relation. No longity was made as to whether the lands were ministerial lands, and thus excepted from the statute and a patent for all the from the statute and a patent for all the

log on Mandanous, 2001.
A demand on Mr. Browning was not, in fact or in law, a demand upon his successor, who must, equally with his predenessor, bave the option of doing or refuning it do shat which is required of him, before any application to compel him shall be made. The second is, the doctrine of this court which bas limited the power of the court which bar with the required by the court in United States vs. Gustlevia, 17 How. 1822, and in Rendall'z case, 18 Pet., p. 614. In the latter case, the court say of the actions of the court in United States vs. Gustlevia, 17 How. 1821, and in any other sense than being a transaction to the department where the books are high. It might well be to any case, that while a particular incumbent has refused to perform an act routed by law, he is necessor would

an act required by law, his successor would not refuse, upon proper demand beling made. The law, therefore, entitles the successor to be the same opportunity to comply or refuse, as was given to the insumbent against whom the suit is brought. The legiment rendered, therefore, against the present Sectorary of the Interior is a neatility.

We understand this court to have, in effect, determined that the duty and power of soing patents does not devolve upon the Land Department, or upon the Secretary of and appariment, or upon the Secretary of and appatised authentic over that department, or upon the Secretary of the Interior, labels in any case to be proceeded against in this form of setton. This view we suppose to be expressed by the deciation in the case of United States vs. Commissioner of Land Office, (5 Walls, 500.) where Mr. Justice Neisson, in delivering the opinion of the court, took occasion to say, that 'Pastets are to be signed by the President in person, or in his name by a secretary under his direction, and countersigned by the Recorder of the General Land Office, (1 Cat March 2, 1891, 5 State, 417.)

No patent for lands can be issued and delivered to any party without the signature of the President of the United States; and a proceeding that seeks to compel the issuing of such a patent must be brought against the President, and can be maintained against no other office under the existing system.

But, independently of this fact, a proceeding against the Secretary of the Interior for to enforce a supposed right under the This section of the set of July 23, 1860, is paipably a mistaken one, as that statute in express terms vests the Commissioner of this land Office, in confernity with its regulations and duty of administering that law, and over his acts the Secretary of the Interior corroless only an appellate and supervisory authority.

And a petition against him which falls to allege such complained by the Land Office, in confernity with the regulations of the land Office, in confernity with the cour

4. The agreement was necessarily limited to the term of office of the defeodant, Mr. Browning:

(a.) Because a judgment after that would be impatory as against him.

(b.) Because the caused acting and stipulating for him had no authority except from Mr. Hrowning, and could convey no power by agreement to the court beyond him and his term of office.

5. Lastly, it will be seen that the judgment is signed and filed in the clerk's office by only two of the judgme, who were not, of course, a majority of the members of the court; and it does not appear that these judges had authority to act, or purported to act, for the court. (Rec. p. 20.).

It is submitted that the judgment in this case is clearly null and void, and should be reversed.

After reading this brief, we think that every intelligent and unprejudiced man in

every intelligent and unprejudiced man in the country must conclude that the rec-judges who ordered the mandamus to issue made a erry grass mistale, and we venture made a eary grass mistake, and we venture the assertion that McGarrahan can flud no authority, either at law or in equity, to sur taln such a preposterous claim as he makes for a tract of land called "Panoche Grande."

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The Convention of the Rational Woman's Suffrage Association will be held in Linavia Rational
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